

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,	)	
	)	Case No. 2:19-CV-6219
Plaintiff,	)	
	)	
v.	)	
	)	
FRED M. SILVERMAN and	)	
SHARI B. FLOMENDORF,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT**

The United States of America, at the direction of a delegate of the Attorney General and with the authorization of a delegate of the Secretary of the Treasury, pursuant to 26 U.S.C. § 7401, brings this civil action to reduce to judgment certain unpaid federal tax liabilities owed by Fred M. Silverman and Shari B. Flomendorf. For its complaint, the United States alleges as follows:

**JURISDICTION AND PARTIES**

1. The district court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1340, and 1345, and 26 U.S.C. § 7402.
2. The defendant Fred M. Silverman resides in Suffolk County, New York, within the jurisdiction of this Court.
3. The defendant Shari B. Flomendorf resides in Suffolk County, New York, within the jurisdiction of this Court.

**COUNT ONE**  
**(Claim Against Fred M. Silverman to Reduce**  
**Certain Income Tax Liabilities to Judgment)**

4. A delegate of the Secretary of the Treasury made assessments against Fred M. Silverman for income taxes and penalties for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of as of November 4, 2019, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, after applying any abatements, payments, and credits, as follows:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Assessment Type</b>	<b>Amount Assessed</b>	<b>Balance Due</b>
12/31/2005	9/6/2010	Tax (IRC § 6020(b))	\$13,879.00	\$36,775.79
	9/6/2010	Failure to Pre-Pay	\$556.72	
	9/6/2010	Late Filing Penalty	\$3,122.77	
	9/6/2010	Late Payment Penalty	\$3,469.75	
12/31/2006	11/9/2009	Tax (IRC § 6020(b))	\$18,574.00	\$46,458.90
	11/9/2009	Failure to Pre-Pay	\$878.93	
	11/9/2009	Late Filing Penalty	\$4,179.15	
	11/9/2009	Late Payment Penalty	\$2,878.97	
	7/19/2010	Late Payment Penalty	\$1,485.92	
	7/18/2011	Late Payment Penalty	\$278.61	
12/31/2007	4/5/2010	Tax (IRC § 6020(b))	\$22,855.00	\$53,344.95
	4/5/2010	Failure to Pre-Pay	\$1,040.17	
	4/5/2010	Late Filing Penalty	\$5,142.37	
	4/5/2010	Late Payment Penalty	\$2,742.60	
	7/18/2011	Late Payment Penalty	\$2,971.15	
			<b>Total:</b>	<b>\$136,579.64</b>

5. Notice of the liabilities described in paragraph 4 was given to, and payment demanded from, Fred M. Silverman.

6. Despite proper notice and demand, Fred M. Silverman failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and

credits, he remains liable to the United States in the amount of \$136,579.64, plus statutory additions accruing from and after November 4, 2019.

**COUNT TWO**  
**(Claim Against Fred M. Silverman and Shari B. Flomendorf to Reduce**  
**Certain Joint Income Tax Liabilities to Judgment)**

7. A delegate of the Secretary of the Treasury made joint assessments against Fred M. Silverman and Shari B. Flomendorf for income taxes and penalties for the periods, on the dates, and in the amounts described below. These liabilities have balances due as of as of November 4, 2019, including assessed and accrued late-filing and late-payment penalties under 26 U.S.C. § 6651 or penalties for failure to make estimated tax payments under 26 U.S.C. § 6654, costs, and statutory interest, after applying any abatements, payments, and credits, as follows:

<b>Tax Period Ending</b>	<b>Assessment Date</b>	<b>Assessment Type</b>	<b>Amount Assessed</b>	<b>Balance Due</b>
12/31/2008	2/23/2015	Tax	\$24,654.00	\$53,337.12
	2/23/2015	Failure to Pre-Pay	\$792.00	
	2/23/2015	Late Filing Penalty	\$5,547.15	
	2/23/2015	Late Payment Penalty	\$6,610.55	
12/31/2009	3/2/2015	Tax	\$24,356.00	\$49,041.72
	3/2/2015	Failure to Pre-Pay	\$564.00	
	3/2/2015	Late Filing Penalty	\$5,300.10	
	3/2/2015	Late Payment Penalty	\$5,889.00	
12/31/2010	3/2/2015	Tax	\$30,621.00	\$59,979.43
	3/2/2015	Failure to Pre-Pay	\$587.00	
	3/2/2015	Late Filing Penalty	\$6,709.72	
	3/2/2015	Late Payment Penalty	\$7,007.93	
	11/14/2016	Late Payment Penalty	\$447.32	
12/31/2011	12/22/2014	Tax	\$18,836.00	\$32,470.78
	12/22/2014	Late Filing Penalty	\$3,783.15	
	12/22/2014	Late Payment Penalty	\$2,774.31	
	11/14/2016	Late Payment Penalty	\$1,429.19	
12/31/2012	12/22/2014	Tax	\$16,124.00	\$27,079.99
	12/22/2014	Failure to Pre-Pay	\$111.74	
	12/22/2014	Late Filing Penalty	\$3,235.05	
	12/22/2014	Late Payment Penalty	\$1,509.69	

	11/14/2016	Late Payment Penalty	\$2,084.81	
12/31/2013	12/22/2014	Tax	\$24,140.00	\$39,453.68
	12/22/2014	Failure to Pre-Pay	\$321.70	
	12/22/2014	Late Filing Penalty	\$2,127.60	
	12/22/2014	Late Payment Penalty	\$1,063.80	
	11/14/2016	Late Payment Penalty	\$4,846.20	
			<b>Total:</b>	<b>\$261,362.72</b>

8. Notice of the liabilities described in paragraph 7 was given to, and payment demanded from, Fred M. Silverman and Shari B. Flomendorf.

9. Despite proper notice and demand, Fred M. Silverman and Shari B. Flomendorf failed, neglected, or refused to fully pay the liabilities, and after the application of all abatements, payments, and credits, they remain liable, jointly and severally, to the United States in the amount of \$261,362.72, plus statutory additions accruing from and after November 4, 2019.

WHEREFORE, the plaintiff United States of America requests the following relief:

A. Judgment against the defendant Fred M. Silverman for income tax liabilities for the periods ending December 31, 2005, December 31, 2006, and December 31, 2007, in the amount of \$136,579.64, plus statutory additions and interest accruing from and after November 4, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c);

B. Judgment against the defendant Fred M. Silverman and the defendant Shari B. Flomendorf, jointly and severally, for income tax liabilities for the periods ending December 31, 2008, December 31, 2009, December 31, 2010, December 31, 2011, December 31, 2012, and December 31, 2013, in the amount of \$261,362.72, plus statutory additions and interest accruing

from and after November 4, 2019, including interest pursuant to 26 U.S.C. §§ 6601, 6621, and 6622, and 28 U.S.C. § 1961(c); and,

C. The United States of America shall recover its costs, and be awarded such other and further relief as the Court determines is just and proper.

RICHARD E. ZUCKERMAN  
Principal Deputy Assistant Attorney General  
Tax Division, U.S. Department of Justice

/s/ Jordan A. Konig

JORDAN A. KONIG  
Trial Attorney, Tax Division  
U.S. Department of Justice  
P.O. Box 55  
Washington, D.C. 20044  
202-305-7917 (v)  
202-514-5238 (f)  
Jordan.A.Konig@usdoj.gov

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**  
  
United States of America  
  
**(b)** County of Residence of First Listed Plaintiff  
(EXCEPT IN U.S. PLAINTIFF CASES)  
  
**(c)** Attorneys (Firm Name, Address, and Telephone Number)  
Jordan A. Konig, U.S. Department of Justice, Tax Division  
P.O. Box 55, Ben Franklin Station  
Washington, DC 20044 (202) 305-7917

**DEFENDANTS**  
  
Fred M. Silverman and Shari B. Flomendorf  
  
County of Residence of First Listed Defendant Suffolk  
(IN U.S. PLAINTIFF CASES ONLY)  
  
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  
  
Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)  

☒ 1 U.S. Government Plaintiff

☐ 2 U.S. Government Defendant

☐ 3 Federal Question (U.S. Government Not a Party)

☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)  

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)  

**CONTRACT**  
☐ 110 Insurance  
☐ 120 Marine  
☐ 130 Miller Act  
☐ 140 Negotiable Instrument  
☐ 150 Recovery of Overpayment & Enforcement of Judgment  
☐ 151 Medicare Act  
☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)  
☐ 153 Recovery of Overpayment of Veteran's Benefits  
☐ 160 Stockholders' Suits  
☐ 190 Other Contract  
☐ 195 Contract Product Liability  
☐ 196 Franchise

**TORTS**  

**PERSONAL INJURY**  
☐ 310 Airplane  
☐ 315 Airplane Product Liability  
☐ 320 Assault, Libel & Slander  
☐ 330 Federal Employers' Liability  
☐ 340 Marine  
☐ 345 Marine Product Liability  
☐ 350 Motor Vehicle  
☐ 355 Motor Vehicle Product Liability  
☐ 360 Other Personal Injury  
☐ 362 Personal Injury - Medical Malpractice

**PERSONAL INJURY**  
☐ 365 Personal Injury - Product Liability  
☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability  
☐ 368 Asbestos Personal Injury Product Liability  
**PERSONAL PROPERTY**  
☐ 370 Other Fraud  
☐ 371 Truth in Lending  
☐ 380 Other Personal Property Damage  
☐ 385 Property Damage Product Liability

**REAL PROPERTY**  
☐ 210 Land Condemnation  
☐ 220 Foreclosure  
☐ 230 Rent Lease & Ejectment  
☐ 240 Torts to Land  
☐ 245 Tort Product Liability  
☐ 290 All Other Real Property

**CIVIL RIGHTS**  
☐ 440 Other Civil Rights  
☐ 441 Voting  
☐ 442 Employment  
☐ 443 Housing/Accommodations  
☐ 445 Amer. w/Disabilities - Employment  
☐ 446 Amer. w/Disabilities - Other  
☐ 448 Education

**PRISONER PETITIONS**  
**Habeas Corpus:**  
☐ 463 Alien Detainee  
☐ 510 Motions to Vacate Sentence  
☐ 530 General  
☐ 535 Death Penalty  
**Other:**  
☐ 540 Mandamus & Other  
☐ 550 Civil Rights  
☐ 555 Prison Condition  
☐ 560 Civil Detainee - Conditions of Confinement

**FORFEITURE/PENALTY**  
☐ 625 Drug Related Seizure of Property 21 USC 881  
☐ 690 Other  
**LABOR**  
☐ 710 Fair Labor Standards Act  
☐ 720 Labor/Management Relations  
☐ 740 Railway Labor Act  
☐ 751 Family and Medical Leave Act  
☐ 790 Other Labor Litigation  
☐ 791 Employee Retirement Income Security Act  
**IMMIGRATION**  
☐ 462 Naturalization Application  
☐ 465 Other Immigration Actions

**BANKRUPTCY**  
☐ 422 Appeal 28 USC 158  
☐ 423 Withdrawal 28 USC 157  
**PROPERTY RIGHTS**  
☐ 820 Copyrights  
☐ 830 Patent  
☐ 835 Patent - Abbreviated New Drug Application  
☐ 840 Trademark  
**SOCIAL SECURITY**  
☐ 861 HIA (1395ff)  
☐ 862 Black Lung (923)  
☐ 863 DIWC/DIWW (405(g))  
☐ 864 SSDI Title XVI  
☐ 865 RSI (405(g))  
**FEDERAL TAX SUITS**  
☒ 870 Taxes (U.S. Plaintiff or Defendant)  
☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**  
☐ 375 False Claims Act  
☐ 376 Qui Tam (31 USC 3729(a))  
☐ 400 State Reapportionment  
☐ 410 Antitrust  
☐ 430 Banks and Banking  
☐ 450 Commerce  
☐ 460 Deportation  
☐ 470 Racketeer Influenced and Corrupt Organizations  
☐ 480 Consumer Credit (15 USC 1681 or 1692)  
☐ 485 Telephone Consumer Protection Act  
☐ 490 Cable/Sat TV  
☐ 850 Securities/Commodities/Exchange  
☐ 890 Other Statutory Actions  
☐ 891 Agricultural Acts  
☐ 893 Environmental Matters  
☐ 895 Freedom of Information Act  
☐ 896 Arbitration  
☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision  
☐ 950 Constitutionality of State Statutes

**V. ORIGIN** (Place an "X" in One Box Only)  

☒ 1 Original Proceeding

☐ 2 Removed from State Court

☐ 3 Remanded from Appellate Court

☐ 4 Reinstated or Reopened

☐ 5 Transferred from Another District (specify)

☐ 6 Multidistrict Litigation - Transfer

☐ 8 Multidistrict Litigation - Direct File

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
26 U.S.C. 7402

Brief description of cause:  
Suit to reduce tax assessments to judgment

**VII. REQUESTED IN COMPLAINT:**

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$  
397,942.36

CHECK YES only if demanded in complaint:  
JURY DEMAND: ☐ Yes ☒ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):  
JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

DATE  
11/04/2019

SIGNATURE OF ATTORNEY OF RECORD  
/s/ Jordan A. Konig

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

## CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration ☐

I, Jordan A. Konig, counsel for United States of America, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

☐  
☐  
☐

monetary damages sought are in excess of \$150,000, exclusive of interest and costs,

the complaint seeks injunctive relief,

the matter is otherwise ineligible for the following reason

### DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

n/a

### RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

### NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? ☐ Yes ☒ No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? ☒ Yes ☐ No
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? ☒ Yes ☐ No
- c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received: .

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? ☐ Yes ☐ No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

### BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒

Yes

☐

No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐

Yes

(If yes, please explain

☒

No

I certify the accuracy of all information provided above.

Signature: JORDAN KONIG

Digitally signed by JORDAN KONIG  
DN: c=US, o=U.S. Government, ou=Dept of  
Justice, ou=TAX, cn=JORDAN KONIG,  
0.9.2342.19200300.100.1.1=15001003098357  
Date: 2019.11.04 18:31:31 -05'00'

Signature of Clerk or Deputy Clerk



Civil Action No. 2:19-CV-6219

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

Signature of Clerk or Deputy Clerk

Civil Action No. 2:19-CV-6219

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
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☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*:

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: